



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
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J-33

IN REPLY
REFER TO

PROCLTR 02-12

JUL 26 2002

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Provision at Defense Logistics Acquisition Directive (DLAD) 52.217-9002,
Conditions for Evaluation and Acceptance of Part Numbered Items – Application to
Automated Procurements and Other Clarifications (DLAD 17.7501 and
52.217-9002)

This PROCLTR clarifies language in DLAD 17.7501 and the provision at 52.217-9002, Conditions for Evaluation and Acceptance of Part Numbered Items. These revisions are consistent with existing Defense Logistics Agency (DLA) policy, and support the Agency's implementation of Business Systems Modernization (BSM).

The revised language clarifies that when the Agency is conducting automated procurements, alternate offers will not be evaluated for the current buy. This is consistent with existing DLA policy; which states that for any purchase, an alternate offer may be considered technically unacceptable for the current buy, if the time before proposed award does not permit evaluation and delay of award would adversely affect the Government (DLAD 17.7501(b)(4)(ii)). The Agency's strategic goals include reducing costs, improving efficiency, and increasing effectiveness. A principal tool for meeting that objective is the use of automated procurement systems. This is consistent with Federal Acquisition Regulation (FAR) requirements to reduce administrative costs, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors (FAR 13.002); and to maximize the use of electronic commerce when practicable and cost-effective (FAR 13.003(f)). Automated procurement systems are extremely efficient, and they permit more efforts to be directed toward resource-intensive acquisitions and initiatives that offer long-term benefits to the Agency. Evaluating an alternate offer would require removal from the automated system for manual review, which would be much less cost-effective. This PROCLTR makes no change in existing Agency policy regarding consideration of alternate offers. Offers of alternate product that are not evaluated for the current award will continue to be handled in accordance with DLAD 17.7501(b)(4).


This PROCLTR also consolidates Alternates I, II, and III of DLAD 52.217-9002 into the basic provision. Previously, the basic provision was combined with the appropriate Alternate to indicate to offerors the level of technical data that was available to the Government for use in evaluating acceptability of alternate products offered, and the corresponding amount of data offerors were required to submit. Buyers selected the appropriate alternate based on information provided on the Purchase Request (PR) trailer. The revised provision identifies all the possible levels of technical data that might be in the Government's possession, and either the Acquisition



Item Description (AID) or a buyer fill-in will be used to specify the level of technical data applicable to the current procurement. When neither of the above is included in the solicitation, the provision invokes the requirements that apply when the Government has no data (i.e., offerors must provide technical data for both the alternate product being offered and the product described in the AID). This change enables a streamlined process for BSM procurements, which will specify the level of technical data available in the AID; and a continuing mechanism (i.e., buyer fill-in) for communicating the level of technical data for non-BSM procurements.

Additionally, language in the DLAD text and provision is revised to be consistent with other recent DLAD updates (e.g., replacement of the term “procurement identification description (PID)” with “acquisition identification description (AID)”). Other clarifications are made to the provision to address misinterpretations that have occurred (e.g., revision of language providing examples of traceability in 52.217-9002(b), which has sometimes been mistakenly read as all-inclusive).

This PROCLTR is effective immediately and remains in effect until the attached DLAD guidance is incorporated into DLAD 4105.1. The point of contact for this PROCLTR is Ms. Anne Burleigh, J-3311, (703) 767-1358, DSN 427-1358, or e-mail anne_burleigh@hq.dla.mil.



CLAUDIA S. KNOTT
Executive Director
Acquisition, Technical and Supply

Attachment

SUBPART 17.75 - ACQUISITION OF REPLENISHMENT PARTS

17.7501 Procurement of parts.

(b)(3) Solicitation Provision.

(i) The provision at 52.217-9002 entitled "Conditions for Evaluation and Acceptance of Offers for Part Numbered Items" may be used in negotiated acquisitions of replacement parts, components, and assemblies which are identified in the **acquisition identification description (AID)** only by the name of an approved source, a part number, and a brief description, except that the provision at 52.213-9004, Offeror Representations, Certifications, and Fill-in Information--Electronic Commerce, or an alternative method of collecting the data therein, shall be used and shall incorporate 52.217-9002 by reference, whenever a solicitation below the simplified acquisition threshold is automated. (See 13.104(90).) **The provision at 52.217-9002 shall be used verbatim, except that the acronym "CLIN" may be substituted for the word "item" wherever it appears in the provision. When the provision is used, the following shall be inserted in the solicitation:**

"Offer" based on:

Manufacturer's Name
Part No.

(ii) The provision at 52.217-9002 may be used in acquisitions of NSNs identified in the AID as "critical safety items (CSIs)" (see 11.302-91); however, when acquiring CSIs, offers of "exact product" are evaluated in accordance with the clause at 52.211-9005, Conditions for Evaluation and Acceptance of Offers for Critical Safety Items.

(iii) The provision at 52.217-9002 may be used for simplified acquisitions as well as large purchases, provided that the full text of the provision shall be made available to offerors. (When 52.213-9004, or an alternative data collection method, is used, its inclusion of pertinent fill-in portions of 52.217-9002, and the latter's overall incorporation by reference, shall, along with directions to the offeror on electronic access to, and other availability (including hard copy) of, all applicable guidance, constitute provision in full text.)

(iv) The provision should not be used in procurements when technical personnel have specifically advised that for the current procurement, alternate products cannot be evaluated, e.g., restricted source or source controlled items, National Institute for Occupational Safety and Health (NIOSH) items for which necessary testing equipment is not reasonably available, etc.

(v) It is the Government that determines if evidence furnished by offerors in accordance with 52.217-9002 is acceptable. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. Contracting officers have broad flexibility to determine if a particular response conforms, as long as the decision is reasonable. Evidence is not necessarily limited to paper documentation. (For example, the contracting officer may request a sample item for testing.)

(vi) When the product being offered is manufactured for an approved source cited in the AID, the offeror must, if requested by the contracting officer, furnish evidence sufficient to demonstrate that the approved source (A) is overseeing and involved in the manufacturer's production of items; and (B) has authorized the manufacturer to produce the item, identify it by that approved source's name and part number, and sell the item directly to the Government (see 52.217-9002(b)(1)). Such evidence could be documentation obtained directly from the approved source; or identification on a Web site maintained by the approved source, confirming that the manufacturer is an acceptable source for the item identified by that approved source's name and part number. If evidence cannot be obtained directly from the approved source, this does not necessarily preclude acceptance of the offer, if the contracting officer can adequately document that the approved source has oversight of and involvement in the manufacturing process by other means.

(b)(4) Evaluation of alternate item offers for spare parts. When the "Conditions for Evaluation and Acceptance of Offers for Part Numbered Items" provision is used, procedures shall be established by each DSC such that they will evaluate alternate offers when the savings projected will meet the savings threshold stated in the provision and there is a reasonable expectation that the alternate offer may be in line for award. When the provision is not used, all alternate offers will be evaluated, unless the solicitation has provided information that only the item cited in the acquisition identification description (AID) will be acceptable (e.g., restricted source or source controlled items, NIOSH items for which necessary testing equipment is not reasonably available, etc.). **The level of technical data that the Government has available for evaluating the acceptability of an alternate product offered and the corresponding level of technical data that offerors must provide with an offer of alternate**

product will be identified either in the AID or in paragraph (c)(3) of the provision at 52.217-9002. If the level of data and submission requirements are not identified in either of these locations in the solicitation, then 52.217-9002(c)(3)(a) applies. DSC procedures shall also provide for prompt notification by the contracting officer to alternate offerors of interim status (when required) and final status of the alternate offer, i.e., approved, disapproved, returned without evaluation. Several other factors should be considered in making a decision to evaluate items prior to award.

(i) * * *

(ii) For any purchase, if the time before proposed award does not permit evaluation, and delay of award would adversely affect the Government, then alternate offers may be considered technically unacceptable for the **current** acquisition and award made to the otherwise acceptable offeror. The benefits which may accrue to the Government, if the alternate item were accepted, must be weighed against any adverse effects caused by delaying award. Consideration shall be given to requesting expedited evaluation if the benefits are significant. **For automated procurements, offers of alternate product (which includes offers of previously reverse-engineered product) will not be evaluated for the instant procurement, but will be evaluated for potential use on future procurements. The clause may still be included in the solicitation for purposes of informing vendors about necessary submissions for evaluation under current or future procurements.**

(iii)-(vii) * * *

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PART 52

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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52.217-9002 Conditions for Evaluation and Acceptance of Offers for Part Numbered Items.

As prescribed in 17.7501(b)(3), insert the following provision:

CONDITIONS FOR EVALUATION AND ACCEPTANCE OF OFFERS FOR PART NUMBERED ITEMS ([month PROCLTR was issued] 2002) - DLAD

(a) The product described in the acquisition identification description (AID) of this solicitation is that product which the Government has determined to be acceptable. All Offerors shall indicate below, or through an alternative means in an electronic quoting system, whether they are offering an "exact product," an "alternate product" (which includes a "previously reverse-engineered product"), a "superceding part number," or a "previously-approved product;" and shall furnish the data required for whichever is applicable. (To determine which type of product to indicate, Offerors must refer to the criteria in subparagraphs (b)-(e) of this provision, respectively.) Any product offered must be either a product cited in the AID; or be physically, mechanically, electrically, and functionally interchangeable with a product cited in the AID, including additional requirements referred to in the AID, if any.

- o Exact Product - Applies to CLIN(s):
- o Alternate/Previously Reverse-Engineered Product - Applies to CLIN(s):
- o Superceding Part Number - Applies to CLIN(s):
- o Previously-Approved Product - Applies to CLIN(s):

(b) "Exact product."

(1) "Exact product" means a product described by the name of an approved source and its corresponding part number, as currently cited in the AID; modified (if necessary) to conform to any additional requirements set forth in the AID; and manufactured by, or under the direction of, that approved source. If an Offeror indicates that an "exact product" is being offered, the Offeror must meet one of the descriptions in subparagraphs (i)-(iv) below. (Any Offeror not meeting one of these descriptions is not considered to be offering "exact product;" even though the item may be manufactured in accordance with the drawings and/or specifications of an approved source currently cited in the AID.)

(i) An approved source currently cited in the AID offering its corresponding part number as cited in the AID;

(ii) A dealer/distributor offering the product of an approved source that meets the description in subparagraph (i) above;

(iii) A manufacturer who (A) produces the offered item under the direction of an approved source currently cited in the AID; and (B) has authorization from that approved source to manufacture the item, identify it as that approved source's name and part number, and sell the item directly to the Government. If requested by the Contracting Officer, the Offeror/Contractor must provide documentation to demonstrate such authorization.

(iv) A dealer/distributor offering the product of a manufacturer that meets the description in subparagraph (iii) above. If requested by the Contracting Officer, the Offeror/Contractor must provide documentation that demonstrates such authorization.

(2) When the AID identifies the item being acquired as a critical safety item (CSI), offers of exact product will be evaluated in accordance with 52.211-9005.

(c) "Alternate product."

(1) The Offeror must indicate that an "alternate product" is being offered if the Offeror is any one of the following:

(i) An Offeror who (A) manufactures the item for an approved source currently cited in the AID; and (B) does not have authorization from that approved source to manufacture the item, identify it as the approved source part number, and sell the item directly to the Government;

(ii) A dealer/distributor offering the product of a manufacturer that meets the description in subparagraph (i) above;

(iii) An Offeror of a previously reverse-engineered product that is not currently cited in the AID; or

(iv) Any other Offeror who does not meet the criteria in subparagraphs (b) (1), (d), or (e) of this provision.

(2) If an alternate product is offered, the Offeror **shall** furnish with its offer legible copies of all drawings, specifications, or other data necessary to clearly describe the characteristics and features of the alternate product being offered. Data submitted **shall** cover design, materials, performance, function, interchangeability, inspection and/or testing criteria, and other characteristics of the offered product. If the offered product is to be manufactured in accordance with data the Offeror has obtained from elsewhere within the Government, the Offeror shall either furnish the detailed **data specified in this paragraph**, or supply a description of the data package in its possession; i.e., basic data document and revision, the date the data was obtained and from whom (Government agency/activity). If the Offeror does not furnish the detailed data with its offer, the Contracting Officer will be unable to begin evaluation of the offered product until such time as the detailed data can be obtained from the Government agency/activity possessing the data. **If the alternate product is a previously reverse-engineered product, the Offeror shall provide: traceability documentation to establish that the offered item represents the item specified in the AID (i.e., invoice from an approved source or submission of samples having markings of an approved source); number of samples that were examined; the process/logic used; raw data (measurements, lab reports, test results) used to prepare drawings or specifications for the offered item; any additional evidence that indicates the reverse-engineered item will function properly in the end item; and any evidence that life cycle/reliability considerations have been analyzed.**

(3) In addition, the Offeror may be required to furnish data describing the "exact product" cited in the AID. The data required from the Offeror depends on the level of technical data describing the exact product, if any, available to the Government. The possible levels of technical data the Government may have and the corresponding data submission requirements for Offerors are identified in subparagraphs (a)-(d) below. For the item(s) being acquired under this solicitation, the level of data in the Government's possession and the corresponding requirements for data submission are identified in the AID; or, if not specified in the AID, are as follows: buyer insert (a), (b), (c), or (d), as applicable, if AID does not identify. (If the level of data in the Government's possession and Offeror requirements for data submission are not identified in either the AID or in this subparagraph (c)(3), then subparagraph (a) below applies.)

(a) No data: This Agency has no data available for evaluating the acceptability of alternate products offered. In addition to the data required in subparagraph (c)(2) of this provision, the Offeror must furnish drawings and other data covering the design, materials,

etc., of the exact product cited in the AID, sufficient to establish that the Offeror's product is equal to the product cited in the AID.

(b) Adequate proprietary (i.e., limited rights) data: This Agency possesses adequate drawings and/or specifications for the exact product as cited in the AID, but such data are proprietary (i.e., limited rights) and shall be used only for evaluation purposes. The Offeror must furnish the data required in subparagraph (c)(2) of this provision, but is not required to submit data on the exact product.

(c) Inadequate data: This Agency does not have adequate data available for evaluating the acceptability of alternate products offered. In addition to the data required in subparagraph (c)(2) of this provision, the Offeror must furnish drawings and other data covering the design, materials, etc., of the exact product cited in the AID, sufficient to establish that the Offeror's product is equal to the product cited in the AID.

(d) Adequate catalog data: This is a commercial off-the-shelf item. Adequate catalog data are available at the contracting office to evaluate alternate offers. In addition to the data required in subparagraph (c)(2) of this provision, the Offeror must furnish with its offer a commercially-acceptable cross reference list; or legible copies of all drawings, specifications or other data necessary to clearly describe the characteristics and features of the alternate product being offered, sufficient to establish that the Offeror's product is equal to the product cited in the AID. The Offeror is not required to submit data on the exact product.

(3) Except for indefinite delivery purchase orders (IDPOs), if this solicitation is automated (i.e., if the solicitation number begins with SPE; or begins with SP0 and contains "T" or "U" in the ninth position of the procurement instrument identification number (PIIN)), the Contracting Officer will not evaluate offers of alternate product (which includes offers of previously reverse-engineered product) for the current procurement. Instead, the Offeror shall submit a request to the location below for evaluation of the alternate product's technical acceptability for future procurements of the same item. The request for evaluation shall cite the National Stock Number (NSN) of the exact product and, as identified in this provision, include the applicable level of technical data on the alternate and exact products. All offers of alternate product will be handled in accordance with DLAD 17.7501(b)(4).

- (i) For solicitation numbers beginning with SPE7 or SPE9; or beginning with SP0 and containing "T" or "U" in the ninth position of the PIIN:

Defense Supply Center Columbus
Directorate of Procurement
Alternate Offer Monitor, DSCC-PCA
3990 East Broad Street
Columbus, OH 43216-5000

- (ii) For solicitation numbers beginning with SPE4; or beginning with SP0 and containing "T" or "U" in the ninth position of the PIIN:

Defense Supply Center Richmond
Office of the Competition Advocate
ATTN: DSCR-DU
8000 Jefferson Davis Highway
Richmond, VA 23297-5100

- (iii) For solicitation numbers beginning with SPE5; or beginning with SP0 and containing "T" or "U" in the ninth position of the PIIN:

Defense Supply Center Philadelphia
Office of the Competition Advocate/General & Industrial
DSCP-PI
700 Robbins Avenue
Philadelphia, PA 19111-5096

- (d) "Superceding part number."

(1) The Offeror must indicate that a "superceding part number" is being offered if the offered item otherwise qualifies as an "exact product," except that the part number cited in the AID has been superceded. The Offeror may be requested to furnish data, or provide confirmation through some other means, sufficient to establish that there are no changes in the configuration of the part. However, if such data are unavailable, the Offeror may be required to furnish technical data as required in paragraph (c) for "alternate products." (If such data indicate there have been changes in the configuration of the part, the offered item must be identified as

an "alternate product.")

(2) For solicitation numbers beginning with SPE, any data to be furnished with an offer of a "superceding part number" should be mailed to the buyer at the procuring activity address on the solicitation. (Uploading the information with the quotation, or including it in the "Remarks" section, will make the offer a "bid with exception," causing it not to be evaluated.)

(e) "Previously-approved product."

(1) If the product offered has previously been furnished to the Government or otherwise previously evaluated and approved, the Offeror shall indicate in the space provided below, or through an alternative means in an electronic quoting system, the contract and/or solicitation number under which the product was furnished or approved.

CLIN NR (s) _____ have been previously furnished or evaluated and approved under contract/solicitation number _____.

(2) If the product was furnished or evaluated and approved by a contracting activity different from the one issuing this solicitation, Offerors are advised that the Contracting Officer may not have access to records of another activity or other information sufficient to reasonably determine the offered product's acceptability. Therefore, in order to ensure that adequate data is available for evaluation, Offerors may elect to furnish with their offer the information requested by subparagraph (b) or (c) of this provision, whichever is applicable for the offered product. Offerors are advised that if the additional data is not furnished, the Government may not be able to evaluate the offer. (For solicitation numbers beginning with SPE, the information should be mailed to the buyer at the procuring activity address on the solicitation. Uploading the information with the quotation, or including it in the "Remarks" section, will make the offer a "bid with exception," causing it not to be evaluated.)

(f) For all types of offers ("exact product," "alternate product," "superceding part number," or "previously-approved product"), Offerors shall provide the Contractor and Government Entity (CAGE) Code of the manufacturer and the part number being offered for each item in the solicitation.

(g) Failure to furnish adequate data and/or information as prescribed in subparagraph (b), (c), (d) or (e) of this provision (when required for the current procurement) within 10 business days or less, or as otherwise required by the Contracting Officer or elsewhere in this solicitation, may preclude consideration of the offer. For automated procurements, it is the responsibility of the Offeror when offering a "superceding part number" or a "previously-approved part number" to ensure that supporting documentation arrives at the contracting activity within 2 business days after the data is requested, or the offer may not be considered. The Agency will make every effort to determine, prior to award, the acceptability of the products offered which meet the dollar savings threshold shown below, and/or which have a reasonable chance to receive an award based on price offered. Generally, the Agency will not evaluate alternate offers not meeting the dollar threshold. The savings potential is based on the cost of evaluation (\$200.00 if only a local technical evaluation is involved, plus an additional \$1,200.00 for each required Engineering Support Activity evaluation). If the Agency determines that an evaluation cannot be completed before the expected contract award date due to urgent requirements for the item, alternate offers will not be considered for the current procurement. Instead, they will be evaluated for technical acceptability for future procurements of the same item, if adequate data is submitted and savings potentials are expected, as stipulated above. For alternate offers not evaluated, the Offeror's complete technical data package will be returned.

(h) If Offerors desire to restrict the Government's use of data submitted for evaluation, the data must bear the appropriate legends as prescribed by FAR 52.215-1(e). In the event an award is made to an Offeror submitting data without the appropriate legend, the Government will have unlimited rights to its use as defined in DFARS 252.227-7013.

(i) It is the Government that determines if the documentation or other evidence furnished by an Offeror is adequate to satisfy the requirements in this provision. If the Contracting Officer requests evidence from a Contractor who received an award resulting from this solicitation, and the Contracting Officer subsequently finds the evidence to be unacceptable, the award may be cancelled.

(End of provision)

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